## UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

## DELAWARE VALLEY FLORAL GROUP, INC. d/b/a DELAWARE VALLEY WHOLESALE FLORIST

and

Case 05-CA-096037

## PAUL DARMAFALL

## ORDER DENYING MOTION

The Respondent's motion for summary judgment in Case 05-CA-096037 is denied. The Respondent has failed to establish that it is entitled to judgment as a matter of law.<sup>1</sup>

Dated, Washington, D.C., June 27, 2013

MARK GASTON PEARCE, CHAIRMAN

RICHARD F. GRIFFIN, JR., MEMBER

SHARON BLOCK, MEMBER

\_

<sup>&</sup>lt;sup>1</sup> The Respondent contends that summary judgment should be granted because the Board acted ultra vires by issuing the complaint at a time when it had no General Counsel or valid Acting General Counsel and lacked a valid quorum under *Noel Canning v. NLRB*, 705 F.3d 490 (D.C. Cir. 2013), cert. granted 81 USLW 3629, 2013 WL 1774240 (U.S. June 24, 2013). For the reasons stated in *Sub-Acute Rehabilitation Center at Kearney d/b/a Belgrove Post Acute Care Center*, 359 NLRB No. 77, slip op. 1, fn.1 (2013), these arguments are rejected.